



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

FORESTRY OPERATIONS PERMIT FOP 941

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Plum Creek Timber Company for Forestry Operations Permit FOP 941, finds the following facts:

1. Applicant/Agent: Plum Creek Timber Company
Attn: Steve Pollis
PO Box 297
Greenville Jct., Maine 04442
2. Date of Complete Application: December 30, 2014
3. Location of Proposal: Taunton & Raynham Academy, Somerset County
Plan 05, Lot 22; & Plan 5, Lot 31
4. Zoning: (D-MH-RS1) Residential Development Subdistrict
5. Approximate Dates for Operation: January, 2015 to January, 2017

Proposal

6. The applicant proposes to harvest timber within two operational sites which are located within the Concept Plan for the Moosehead Lake Region, each designated as Residential Development Zone D-MH-RS1. Approximately 610 acres west of Route 15 (Blue Ridge Harvest Units) will be harvested and approximately 288 acres east of Route 15 (Masterman Farm Harvest Units) will be harvested, all of which is within the Rockwood/Blue Ridge Residential Development Area. This residential development zone is currently undeveloped, but may be developed with residential units pursuant to the limitations on number of units in the Concept Plan.¹ The proposed timber harvest within the Blue Ridge area will target the removal of mature hardwoods and scattered mature softwoods. The goal of that harvest is to release the regeneration creating a vigorous future stand while retaining more than 450 trees per acre throughout the harvest. The proposed timber harvest within the Masterman Farm area will target species within one unit that have reached biological maturity, which would mean a 40-50% reduction of stems within the stand. The timber harvest in the remaining units will target mature intolerant hardwoods that have reached

¹ The number of units approved in all Development Areas during the 30-year term of this Concept Plan shall not exceed 2,025 ("total unit cap"). The Beaver Cove, Moose Bay, Rockwood/Blue Ridge and Route 6/15 Corridor Development Areas do not have unit sub-caps ("uncapped development areas"). Thus, the number of units may fluctuate among these uncapped development areas, and units from other development areas may be transferred to these uncapped development areas, as long as the total unit cap is not exceeded. Concept Plan for the Moosehead Region, Sub-Chapter IV, SUPPLEMENTAL REVIEW PROCESSES AND REQUIREMENTS, 10.28, B. Limitations on Numbers of Units.

biological maturity. The harvest will release abundant advanced regeneration creating a vigorous free to grow stand for the future. There will be a small diverse species component left structural diversity and wildlife uses. The applicant recognizes that there are potential risks associated with a timber harvest in a D-MH-RS1 zone that could compromise future development opportunities due to the clearing standards required by the Concept Plan. The applicant proposes to utilize advanced harvest planning and layout efforts to avoid creating any clearings that would compromise future development. The applicant intends to allow limited timber harvesting to achieve the goal of creating healthier forest structure for the long term.

7. The proposed timber harvest within the Blue Ridge area would be greater than 3 miles from any public road and would be set back 50 feet from the company owned existing land management roads. The proposed timber harvest within the Masterman Farm area would be setback at least 100 feet from Route 6/15 and at least 50 feet from the existing company owned land management roads. The applicant does not propose to use the existing Masterman Farm Road that provides access to the residential camps located on Moosehead Lake. The applicant proposes to leave the vegetation intact within these road setbacks to help screen the harvest areas. Both timber harvest areas will utilize existing landings whenever possible and construct main skid trails with an "S" curve to further limit view of the harvest areas. There are no existing populated areas near either of the harvest areas. Distance and topographic diversity of the landscape will minimize visibility from water bodies and waterways in the vicinity of these harvests. There is no proposed timber harvesting within 250 feet of the normal high water mark of either Moosehead Lake or Brassua Lake. The applicant contends that there would be no adverse impacts on any known recreational activities, including snowmobiling and ATV riding, in the vicinity of the harvest areas.
8. The entire harvest is expected to take approximately two years to complete within the above referenced dates for operation.
9. Based on the application, the terrain within the proposed harvest area consists of a moderately well drained somewhat loamy/gravel component to somewhat poorly drained soils group. The character of topography is described as an upland with a long, gentle sloping ridge. The overall area has a gentle rolling slope with some areas having a grade of 5-10%. The applicant found no soils/drainage issues that would impact timber harvesting.
10. Based on the application, the primary species composition within the Blue Ridge area is approximately 40% Red Maple, 10% Sugar Maple, 10% Yellow Birch, 10% intolerant hardwoods, 9% Beech, 10% Spruce, 10% Balsam Fir, and 1% White Pine-Hemlock-Cedar. The hardwood stands are approximately 150 years old. The stand had a shelterwood harvest conducted in the late 1990's reducing the basal area by 50%. Primary Species Composition within the Masterman Farm area is approximately 25% Red Maple, 25% Balsam Fir, 25% White Birch, 10% Aspen, 10% Spruce and 5% White Pine-Hemlock-Cedar. The mixed wood stands have an approximate age of 90 years. There was a thinning conducted on these stands in the early 1990's reducing the basal area by 25%. The proposed harvest in both areas would promote the release of the existing advanced regeneration and promote the establishment of new regeneration from the new openings in the canopy, which would allow sunlight to reach the forest floor.
11. The applicant's goal of the Over Story Removal harvests in both areas is to capture the species that are showing signs of decline and shorter lived species such as the balsam fir and intolerant hardwoods. This will reinvigorate the stand by allowing the healthy and thriving understory to respond vigorously. The white pine, hemlock and cedar are showing less signs of die back and poor vitality and will be retained.

Review Criteria

12. Under provisions of Section 10.21,K,3,d(5) of the Concept Plan for the Moosehead Lake Region, timber harvesting may be allowed within a Residential Development Zone (D-MH-RS1) as a special exception upon issuance of a permit from the Commission pursuant to 12 M.R.S.A. 685-A(10), and subject to the terms, conditions and provisions of the Concept Plan, including all applicable requirements of the LUPC amendable provisions, provided that the applicant shows by substantial evidence that (a) the use can be buffered from those uses within the vicinity or area likely to be affected by the proposal with which it is or may be incompatible; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the terms, conditions and provisions of this Concept Plan and the policies of the Comprehensive Land Use Plan.
13. Under the provisions of Section 10.27,E, of the Commission's Land Use Districts and Standards, timber harvesting not in conformance with the standards of this section may be allowed upon issuance of a permit from the Commission provided that such types of activities are allowed in the sub-district involved. An applicant for such a permit shall show by a preponderance of the evidence that the proposed activity, which is not in conformance with the standards of this section, shall be conducted in a manner which produces no undue adverse impact upon the resource and use in the area.
14. Under provisions of Section 10.25,E,1,B(2) Vegetation Clearing Activities of the Concept Plan for the Moosehead Lake Region, the requirements of Section 10.25,E,1,C through E shall apply to all vegetation clearing activities [including timber harvesting activities] that are (a) located within 5 miles (horizontal distance) of one or more public vantage points and (b) associated with structures, facilities and uses identified in sub-section B(1), above including but not limited to vegetation clearing for the purpose of opening a view from a structure, vegetation clearing for preview clearings, and vegetation clearing for purposes associated with residences such as lawns, yards, play areas, and gardens.

Vegetation Clearing activities shall be allowed only upon issuance of a permit from the Commission and shall be conducted in accordance with Section II, Sub-Chapter IV, 10.31 and the terms and conditions of permits issued by the Commission, except that vegetation clearing activities associated with surveys or other resource analysis necessary for the preparation of permit applications shall be allowed without a permit as long as such preparatory vegetation clearing is not of a nature that would compromise the ability of future development to comply with the requirements of Section 10.25,E,C through E.

15. Under provisions of Section 10.31 Procedures for Evaluating and Conducting Vegetation Clearing Activities of the Concept Plan for the Moosehead Lake Region, the purpose for this Section establishes (1) the minimum information that must be submitted by an applicant as part of any subdivision or development permit application for structures, facilities and uses that must comply with the standards for vegetation clearing activities outside shoreland and roadway buffer areas (Section II, Sub-Chapter, 10.25,E,1,D) in order for the Commission to evaluate the proposal for consistency with these standards; and (2) the procedures that must be followed for any such vegetation clearing activities.

Review Comments

16. The Maine Forest Service has reviewed this application and has no concerns with the applicant's proposal.
17. The Division of Inland Fisheries and Wildlife has reviewed this application and has no concerns with the applicant's proposal provided the wetlands associated with Rusty Black Bird habitat and wetlands

associated with wading bird habitat within the vicinity of the Masterman Farm Harvest Units are not adversely impacted by the timber harvest.

18. The Maine Natural Areas Program has reviewed the application. According to their current information, there are no rare botanical features that will be disturbed within the project site.
19. The Maine State Soil Scientist has reviewed the application and advised that the soils mapping submitted by the applicant indicates that there may be operation issues if harvests occur when the ground is wet and not frozen. However, since the applicant proposes to harvest during the winter on frozen ground, he has no objections to the proposed harvest.

Discussion

20. Timber harvesting is an allowed use in the D-MH-RS1 by special exception pursuant to section 10.21,K,3,d of the Concept Plan. There is nothing in the Concept Plan that prohibits timber harvesting activities in a D-MH-RS1 zone or that requires any special documentation of the pre-harvest conditions. However, sections 10.25,E,1 and 10.31 set up a process and criteria for vegetative clearing activities applicable to structures, facilities and uses that are located within five miles (horizontal distance) of one or more public vantage points. Any future development within the D-MH-RS1 zone that is located within five miles of a public vantage point will need to meet the provisions of 10.25,E,1 and 10.31. The ability for those areas to meet the vegetated clearing standards may be affected by any timber harvest operations that precede any development.

The application provides sufficient information to show the proposed locations of the timber harvests in the D-MH-RS1. The application also indicates the harvests “has been designed to specifically address any potential future clearing standard issues” and that “it is recognized that there are potential risks associated with a timber harvest in a D-MH-RS1 zone that could compromise future development opportunities due to clearing standard requirements” and that “advanced harvest planning and layout efforts have specifically addressed this issue.”

If development is proposed in the future for the Blue Ridge and Masterman Farm Development Areas, it will need to meet all applicable vegetation clearing requirements of Section 10.25,E,1,C through E. These include:

- C. Vegetation Clearing Activities Within Shoreland and Roadway Buffer Areas
- D. Vegetation Clearing Activities Outside Shoreland and Roadway Buffer Areas
- E. Replacement of Removed Vegetation

The timber harvest should not compromise the ability of future development to comply with these specific criteria and may not be a basis for a waiver to the vegetation clearing standards.

By way of example, but not by limitation, section 10.25,E,1,D.(2)(a)(ii) of the Concept Plan (Waivers to Façades, Silhouetted Perimeters and/or Cleared Opening Standards due to Visual Obstructions or Elevation Differences) may allow a waiver when development is proposed “to be located at such a lower elevation than the public vantage points from which it could be viewed that existing vegetation conditions cannot meaningfully screen the views from these elevated public vantage points (emphasis added).” The existing vegetation conditions, for purposes of evaluating this standard, should not be those that exist as a result of timber harvesting that has occurred since the Concept Plan went into effect.

In other words, the proposed timber harvest should not serve to later suggest, for purposes of obtaining a waiver, that “existing vegetation conditions cannot meaningfully screen the views.”

Likewise, by way of example, but not by limitation, section 10.25,E,1,D.(2)(b)(iv) of the Concept Plan (Waivers to Façades and/or Silhouetted Perimeters Standards) may allow a waiver when development is “located, designed and landscaped so as to comply with the vegetation clearing standards of Section 10.25,E,1,D,(1),(a)(b) to the greatest extent practicable (emphasis added).” The conditions created by the proposed timber harvest should not serve to later suggest, for purposes of obtaining a waiver, that the vegetation clearing standards of Section 10.25,E,1,D,(1),(a)(b) have been met “to the greatest extent practicable” if in fact they could have been more fully met but for the timber harvesting.

Conclusion

21. Timber harvesting is an allowed use in the D-MH-RS1 by special exception. Nothing in the Concept Plan requires any special documentation of the pre-harvest conditions. Any future development within the D-MH-RS1 zone will need to meet the provisions of 10.25,E,1 and 10.31 which set up a process and criteria for vegetative clearing activities applicable to structures, facilities and uses that are located within five miles of public vantage points. The ability for those areas to meet the vegetated clearing standards may be affected by any timber harvest operations that precede any development. The timber harvest should not compromise the ability of future development to comply with these specific criteria and may not be a basis for a waiver to the vegetation clearing standards.
22. The facts are otherwise as represented in Forestry Operations Permit Application FOP 941 and supporting documents.

Based upon the above Findings, the staff concludes that, if carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, Section 685-B(4) of the Commission’s Statutes, 12 M.R.S.A.

Therefore, the staff approves the application of Plum Creek Timber Company with the following conditions:

1. This permit is limited to the proposal as set forth in the application and as modified by the conditions of approval. All changes must be reviewed and approved by the Commission. Any variance from the application or the conditions of approval undertaken without review and approval of the Commission constitutes a violation of the Land Use Planning Commission law.
2. All future development must comply with the Concept Plan’s criteria for Scenic Character and Vegetative Clearing Activities. There are potential risks associated with this timber harvest in an undeveloped D-MH-RS1 zone that could compromise future development opportunities due to clearing standard requirements. The Commission’s staff decision to conditionally approve the proposed timber harvest does not waive the Commission’s right or ability to limit any future development that does not comply with all applicable standards of the Commission’s Land Use Districts and Standards and/or the Concept Plan for the Moosehead Lake Region. This timber harvest shall not be a basis for a waiver to the vegetation clearing standards.
3. The recipient of this permit must secure and comply with all applicable licenses, permits and authorizations of all federal, state and local agencies, with particular regard to the water pollution

regulations of the Maine Department of Environmental Protection, the Maine Department of Inland Fisheries and Wildlife and the Maine Forest Service.

4. The Commission or its authorized representatives may inspect the operation during and upon completion of activities to assure compliance with the provisions of this permit.
5. The recipient of this permit shall designate a person experienced in Forestry who is responsible for seeing that the operation is properly conducted in accordance to these conditions of approval, and who may be contacted by the Commission with regard to inspection of the operation.
6. The area of the project covered by this permit must be kept free of litter, trash, junk cars, and any other obvious eyesores or unsanitary deposits.
7. The permittee shall comply with the Standards for Timber Harvesting, Sections 10.27,E of the Commission's Land Use Districts and Standards, a copy of which is attached, unless more restrictive requirements apply.
8. All operations shall be stopped where the continuation of such operations will cause or contribute to the occurrence of erosion or the sedimentation of surface waters, whether such occurrence is precipitated by exceptionally wet weather, the failure of water control measures, or other factors. Adequate steps must be taken immediately to stop any erosion or sedimentation of surface waters and to correct the situation which led to such occurrence. For the purposes of this action erosion is defined as evidence of rill or gully erosion.
9. Except as specifically allowed by this permit, the permittee shall comply with all of the Commission's Standards.
10. Twitch trails or skid trails shall be located and designed to maximize use of the water control and erosion and sedimentation prevention measures described for skid roads in all cases where it may reasonably be anticipated that use of the trail will result in the creation of a skid trail. Slash and vegetative debris shall be placed in all twitch trails and skid trails to retard runoff and improve erosion control unless chipped and replanted or seeded.

In all cases where twitch trails or skid trails become skid roads (where the trail is used enough to expose significant areas of mineral soil) all practicable water control measures shall be immediately implemented including strict adherence to the provisions of the permittee's proposals which call for water bars and seeding.

11. Skid roads shall be constructed using the following specifications for water control measures, including culverts, dips, water turnouts, and water bars:

<u>Slope</u>	<u>Spacing</u>
0 - 2%	500 - 300 feet
3 - 5%	250 - 180 feet
6 - 10%	167 - 140 feet
11 - 15%	136 - 127 feet
16 - 20%	125 - 120 feet
21%+	100 feet

Water control measures shall be spaced at shorter intervals than specified above if necessary in order to avoid accelerated erosion or sedimentation of surface waters.


12. Upon completion of use of skid roads, water bars shall be properly installed according to the following slope requirements:

<u>Skid Trail Slope</u>	<u>Spacing</u>
0 - 2%	250 feet
3 - 5%	200 - 135 feet
6 - 10%	100 - 80 feet
11 - 15%	80 - 60 feet
16 - 20%	60 - 45 feet
21%+	40 feet

13. Additional water bars shall be located approximately 50 feet above, and at the bottom of sections of such trails which exceed 25 percent in slope for a distance of 100 feet or more.
14. Upon completion of construction and use, all skid trails having exposed mineral soils on slopes greater than 5 percent within the D-MH-RS1 zone shall be seeded.
15. If water control measures beyond those specified herein prove to be necessary in order to reasonably avoid accelerated erosion or sedimentation of surface waters, such additional measures must be employed.
16. Harvesting operations shall only occur during dry or frozen ground conditions.
17. Harvesting operations and land management operations shall utilize the currently existing roads to the greatest possible extent.
18. An undisturbed / uncut 50 foot wide vegetated screening buffer must be maintained from the boundary of the R.O.W. for Route 6/15 and along all public road ways located within the D-MH-RS1 sub-district.
19. Permittee shall not clear cut the site and shall abide by all standards as specified within the Forest Practices Act.
20. Timber harvest shall avoid adversely impacting the wetlands associated with Rusty Black Bird habitat and wetlands associated with wading bird habitat within the vicinity of the Masterman Farm Harvest Units.
21. The period of operations shall be from January, 2015 to January, 2017.

This permit is approved only upon the above stated conditions and remains valid only if the permittee complies with all of these conditions. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT GREENVILLE, MAINE, THIS 15th DAY OF JANUARY, 2015.

By:  RODERICK J. FRANK
for Nicholas D. Livesay, Executive Director